

EXPLANATORY STATEMENT*Migration Regulations 1994***Migration (LIN 19/183: Arrangements for Working Holiday Visa Applications)****Instrument 2019**

(Subregulation 2.07(5), subitem 1225(5) of Schedule 1 and subclause 417.211(2) of Schedule 2 to the Regulations)

1. The instrument, LIN 19/183, is made under subregulation 2.07(5), subitem 1225(5) of Schedule 1 and subclause 417.211(2) of Schedule 2 to the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals LIN 18/173 (F2018L01507) made under subregulation 2.07(5), subitem 1225(5) of Schedule 1 and subclause 417.211(2) of Schedule 2 to the Regulations, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.
3. The instrument operates to specify the requirements for making an application for a Working Holiday (Temporary) (Class TZ) visa. For the purposes of subitem 1225(1) of Schedule 1 to the Regulations, the instrument specifies the approved forms for making an application. For the purposes of subitem 1225(3) of Schedule 1 to the Regulations, the instrument specifies the place and manner in which an application is to be made.
4. The instrument also operates to outline the criteria for a Subclass 417 (Working Holiday) visa. Under paragraph 417.211(2)(a) of the Regulations, a working holiday eligible passport must be held by a person seeking to meet the criteria for a Subclass 417 (Working Holiday) visa. The instrument specifies the countries or regions that may issue a working holiday eligible passport and any criteria that the passport must meet to be eligible. Furthermore, for the purposes of paragraph 417.211(2)(a) and subparagraph 417.211(2)(b)(ii) of the Regulations, the instrument specifies a younger

- age for applicants from those specified countries or regions except for France, Canada and Ireland, where the applicant's age is as prescribed by paragraph 417.211(2)(b)(i) of the Regulations.
5. The purpose of the instrument is to increase the eligible age for French applicants for the Subclass 417 (Working Holiday) visa to the maximum of 35 as allowed by the Regulations. The instrument also amends Schedule 2 to the instrument to include reference to a region (in addition to a country) and provide greater clarity for the age requirements.
 6. The changes will only apply in relation to new applications for a Working Holiday (Temporary) (Class TZ) visa made on or after 1 July 2019. Applications made before 1 July 2019 are subject to the requirements set out in LIN 18/173.
 7. Consultation was undertaken before the instrument was made as follows:
 - a. Previously, the Department had consulted with tourism industry stakeholders through the Tourism Visa Advisory Group in relation to a decision to increase the eligible age for Subclass 417 (Working Holiday) visa applicants. Additionally, the Department consulted with the Department of Employment, the Department of Foreign Affairs and Trade, the Department of Finance, the Department of the Treasury, the Department of Agriculture and Tourism Australia on the increase of the eligible age.
 - b. The Department (with support from the Department of Foreign Affairs and Trade) commenced bilateral negotiations with the Government of France to secure an agreement for the implementation of the age increase. In-principle agreement with the Government of France was reached in late 2018. Official confirmation by France was received on 24 June 2019.
 8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 22248).
 9. The officer (Senior Executive Service, Band one, Immigration and Visa Services Division) who made the instrument was delegated the powers required to make the instrument in *Minister – Delegations Instrument No. 5 of 2018 (Instrument Making Powers) (MHA No. 5 of 2018)*, signed on 10 April 2018.

10. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
11. The instrument commences on 1 July 2019.